



General Assembly

February Session, 2012

Raised Bill No. 5385

LCO No. 1728

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Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING ENERGY RETROFITS FOR CERTAIN BUILDINGS AND THE DISCLOSURE OF THE ENERGY EFFICIENCY OF CERTAIN BUILDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) As used in this
2 section, "residential building" means a structure that is intended to be
3 or is used as a residence consisting of one to four dwelling units.

4 (b) The Commissioner of Energy and Environmental Protection, in
5 consultation with the Secretary of the Office of Policy and
6 Management and the Commissioner of Consumer Protection, shall
7 develop a program and adopt regulations in accordance with the
8 provisions of chapter 54 of the general statutes for evaluating and
9 disclosing the energy consumption of residential buildings before the
10 sale of such buildings, including, but not limited to, a method for
11 labeling or disclosing such information. Such regulations may include,
12 but not be limited to, adoption of a federal rating and disclosure
13 system. In developing such program and adopting such regulations,
14 the Commissioner of Energy and Environmental Protection shall
15 consult with residential energy efficiency auditors, providers of

16 residential energy efficiency services and members of the residential
17 real estate and mortgage banking industries.

18 (c) On and after July 1, 2014, any owner of a residential building
19 located in the state shall have the energy consumption of such building
20 evaluated in accordance with the regulations adopted pursuant to
21 section (b) of this section before the sale of such building, except for a
22 sale between coowners, spouses or persons related by consanguinity
23 within the third degree or a transfer through inheritance. Such
24 evaluation shall cover a period of not less than five years before the
25 sale of such building or the period since the adoption of said
26 regulations, whichever is less.

27 Sec. 2. (NEW) (*Effective October 1, 2012*) Any landlord who requires a
28 tenant to pay heating expenses as part of the agreed lease shall, before
29 entering into such lease agreement, provide a potential tenant with a
30 statement of prior usage for heating expenses for the unit for at least
31 the previous two years. The statement of prior usage shall consist of a
32 report from the supplier of the heating fuel, including an electric or
33 natural gas distribution company, if available, and shall otherwise be
34 based on (1) records of the heating fuel supplier, or (2) a good-faith
35 estimate by the landlord.

36 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) As used in this section,
37 "nonresidential building" means any building that is intended to be or
38 is used for commercial purposes and does not include any building
39 used for manufacturing or long-term residential use.

40 (b) Commencing January 1, 2013, each electric distribution, electric
41 and gas company shall maintain records of the energy consumption
42 data of all nonresidential buildings to which such company provides
43 service. This data shall be maintained in a format (1) compatible for
44 uploading to the United States Environmental Protection Agency's
45 Energy Star portfolio manager or comparable system, and (2) that
46 preserves the confidentiality of the customer.

47 (c) On and after January 1, 2013, upon the written authorization or
48 secure electronic authorization of a nonresidential building owner or
49 operator, an electric distribution, electric or gas company shall upload
50 all of the energy consumption data for the specified building account
51 to the Energy Star portfolio manager or comparable system to
52 benchmark such building's energy use. The electric distribution,
53 electric or natural gas utility shall maintain information in a manner
54 that preserves the confidentiality of the customer.

55 (d) (1) Not later than January 1, 2014, and annually thereafter not
56 later than January first, any owner or operator of a nonresidential
57 building with a total gross floor area of not less than fifty thousand
58 square feet shall benchmark such building's energy use by uploading
59 such building's energy consumption data to the Energy Star portfolio
60 manager benchmarking tool or a comparable system. On and after
61 January 1, 2014, such owner or operator shall disclose the
62 benchmarking data and ratings generated by such tool or system for
63 the most recent twelve-month period to any prospective buyer, lessee
64 or lender that would finance the purchase of the building or some
65 portion thereof. On and after January 1, 2015, such owner or operator
66 shall provide such benchmarking data and ratings for the most recent
67 twelve-month period to the Commissioner of Energy and
68 Environmental Protection who shall make such benchmarking data
69 and ratings accessible to the public via an on-line database.

70 (2) Not later than July 1, 2014, and annually thereafter not later than
71 July first, any owner or operator of a nonresidential building with a
72 total gross floor area of not less than twenty thousand square feet but
73 less than fifty thousand square feet shall benchmark such building's
74 energy use by uploading such building's energy consumption data to
75 the Energy Star portfolio manager benchmarking tool or a comparable
76 system. On and after July 1, 2014, such owner or operator shall disclose
77 the benchmarking data and ratings generated by such tool or system
78 for the most recent twelve-month period to any prospective buyer,
79 lessee or lender that would finance the purchase of the building or

80 some portion thereof. On and after July 1, 2015, such owner or
81 operator shall provide such benchmarking data and ratings for the
82 most recent twelve-month period to the Commissioner of Energy and
83 Environmental Protection who shall make such benchmarking data
84 and ratings accessible to the public via an on-line database.

85 (3) Not later than January 1, 2015, and annually thereafter not later
86 than January first, any owner or operator of a nonresidential building
87 with a total gross floor area of not less than ten thousand square feet
88 but less than twenty thousand square feet shall benchmark such
89 building's energy use by uploading such building's energy
90 consumption data to the Energy Star portfolio manager benchmarking
91 tool or a comparable system. On and after January 1, 2015, such owner
92 or operator shall disclose the benchmarking data and ratings generated
93 by such tool or system for the most recent twelve-month period to any
94 prospective buyer, lessee or lender that would finance the purchase of
95 the building or some portion thereof. On and after January 1, 2016,
96 such owner or operator shall provide such benchmarking data and
97 ratings for the most recent twelve-month period to the Commissioner
98 of Energy and Environmental Protection who shall make such
99 benchmarking data and ratings accessible to the public via an on-line
100 database.

101 (e) On or before July 1, 2013, the Secretary of the Office of Policy and
102 Management shall benchmark the energy use of any nonresidential
103 building with a total gross floor area of not less than ten thousand
104 square feet owned or operated by the state or any state agency by
105 uploading such building's energy consumption data to the Energy Star
106 portfolio manager benchmarking tool or a comparable system.

107 Sec. 4. Section 8-253a of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective October 1, 2012*):

109 In addition to the terms and conditions set forth in section 8-253,
110 loans made by the authority hereunder shall also be subject to the
111 following terms and conditions:

112 (1) A loan hereunder may be prepaid after a period of twenty years
113 or sooner with the permission of the authority; provided, nonprofit
114 mortgagors and mortgagors to whom loans are made on or after
115 October 1, 1978, may prepay their loans prior to maturity only with the
116 consent of the authority. The authority shall grant such consent if it
117 finds (A) that it may reasonably be expected that the prepayment of
118 the loan will not result in a material escalation of rents charged to
119 occupants of the project; and (B) that the need for low and moderate
120 income housing in the area concerned is no longer acute.

121 (2) The interest rate on the loan shall be established by the authority
122 at the lowest level consistent with the authority's cost of operation and
123 its responsibilities to the holders of its bonds, bond anticipation notes
124 and other obligations, except those loans made pursuant to subsection
125 (32) of section 8-250.

126 (3) The authority shall require the mortgagor or its contractor to
127 post labor and materials and construction performance surety bonds,
128 or enter into an escrow arrangement acceptable to the authority, in
129 amounts related to the project cost as established by regulation, and to
130 execute such other assurances and guarantees as the authority may
131 deem necessary.

132 (4) The loan shall be subject to an agreement between the authority
133 and the mortgagor which will subject said mortgagor and its principals
134 or stockholders to limitations established by the authority as to rentals,
135 carrying charges, and other charges, profits and fees, and the
136 disposition of its property and franchises to the extent more restrictive
137 limitations are not provided in the law under which the mortgagor is
138 incorporated or organized.

139 (5) A loan to a mortgagor, other than a municipal developer or a
140 nonprofit corporation having as one of its purposes the construction or
141 rehabilitation of housing, shall be subject to an agreement between the
142 authority and the mortgagor limiting the mortgagor, and its principals
143 or stockholders, to such return on the mortgagor's equity in any project

144 assisted with a loan from the authority as may be established or
145 permitted by the authority. The mortgagor's equity in a project shall
146 consist of the difference between the amount of the loan and the total
147 project cost, whether or not such costs have been paid in cash or in a
148 form other than cash. With respect to every project, the authority shall,
149 pursuant to rules and regulations adopted by it, establish the
150 mortgagor's equity after the acceptance as proper by the authority of
151 the certification or other assurances of project cost from the mortgagor,
152 provided in no case shall such figure ever be less than the mortgagor's
153 original equity in such project.

154 (6) No loan shall be executed, except a loan made to a municipal
155 developer or a nonprofit corporation having as one of its purposes the
156 construction or rehabilitation of housing, unless the mortgagor agrees
157 (A) to certify upon completion of project construction or rehabilitation,
158 subject to audit by the authority, either that the actual project cost as
159 defined herein exceeded the amount of the loan proceeds by ten per
160 cent or more, or the amount by which the loan proceeds exceed ninety
161 per cent of total project cost, and (B) to pay forthwith to the authority,
162 for application to reduction of principal of the loan, the amount, if any,
163 of such excess loan proceeds, subject to audit and determination by the
164 agency. No loan shall be made to a municipal developer or a nonprofit
165 corporation unless such mortgagor agrees to certify the actual project
166 cost upon completion of the project, and further agrees to pay
167 forthwith to the authority, for application to reduction of the principal
168 of the loan, the amount, if any, by which the proceeds of the loan
169 exceed the certified project cost, subject to audit and determination by
170 the authority. Notwithstanding the provisions of this subsection, the
171 authority may accept, in lieu of any certification of project cost as
172 provided herein, such other assurances of the said project cost, in any
173 form or manner whatsoever, as will enable the authority to determine
174 with reasonable accuracy the amount of said project cost.

175 (7) As a condition of the loan, the authority shall have the power at
176 all times during the construction and rehabilitation of a housing

177 project and the operation thereof: (A) To enter upon and inspect
178 without prior notice any project, including all parts thereof, for the
179 purpose of investigating the physical and financial condition thereof,
180 and its construction, rehabilitation, operation, management and
181 maintenance, and to examine all books and records with respect to
182 capitalization, income and other matters relating thereto and to make
183 such charges as may be required to cover the cost of such inspections
184 and examinations; (B) to order such alterations, changes or repairs as
185 may be necessary to protect the security of its investment in a housing
186 project or for the health, safety and welfare of the occupants thereof;
187 (C) to order any managing agent, project manager or owner of a
188 housing project to do such acts as may be necessary to comply with the
189 provisions of all applicable laws and ordinances or any rule or
190 regulation of the authority or the terms of any agreement concerning
191 the said project or to refrain from doing any act in violation thereof
192 and in this regard the authority shall be a proper party to file a
193 complaint and to prosecute thereon for any violation of laws or
194 ordinances as set forth herein; (D) to require the adoption and
195 continuous use of uniform systems of accounts and records for a
196 project and to require all owners or managers of same to file annual
197 reports containing such information and verified in such manner as the
198 authority shall require and to file at such times and on such forms as
199 the authority may prescribe reports and answers to specific inquiries of
200 the authority to determine the extent of compliance with any
201 agreement, the terms of the loan, the provisions of this chapter and any
202 other applicable law; [and] (E) to enforce, by court action if necessary,
203 the terms and provisions of any agreement between the authority and
204 the mortgagor as to schedules of rentals or carrying charges, aggregate
205 family income limits as applied to applicants for housing or the
206 occupants thereof, or any other limitation imposed upon the
207 mortgagor as to financial structure, construction, operation, or
208 disposition of the housing; and (F) to require that an energy audit of
209 such housing project is conducted prior to the construction or
210 rehabilitation of such project and that the recommendations of such

211 energy audit concerning energy efficiency upgrades are implemented
 212 in such construction or rehabilitation.

213 (8) If, pursuant to subsection (29) of section 8-250, the authority
 214 appoints a majority of new directors to the board of directors of a
 215 mortgagor corporation, or appoints a new managing agent for an
 216 unincorporated association, the persons so appointed need not be
 217 stockholders or partners or meet other qualifications which may be
 218 prescribed by the articles of incorporation or other basic documents of
 219 organization or the bylaws of such mortgagor. In the absence of fraud
 220 or bad faith, the persons so appointed shall not be personally liable for
 221 the debts, obligations or liabilities of such mortgagor; and shall serve
 222 only for a period coexistent with the duration of the reasons for their
 223 appointment or until the authority is assured, in a manner satisfactory
 224 to it, that the need for such service no longer exists; and they shall
 225 serve as directors or managing agents for such compensation as the
 226 authority may determine and shall be entitled to be reimbursed for all
 227 necessary expenses incurred in the discharge of their duties as
 228 directors or managing agents of such mortgagor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	8-253a

Statement of Purpose:

To require the disclosure of the energy efficiency of certain buildings and to require energy audits as a condition of certain assistance from the Connecticut Housing Finance Authority.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]